

1 HANSON BRIDGETT LLP
2 PATRICK GLENN- 141604
3 pglenn@hansonbridgett.com
4 KEVIN REESE - 172992
5 kreeese@hansonbridgett.com
6 JAHMAL T. DAVIS - 191504
7 jdavis@hansonbridgett.com
8 425 Market Street, 26th Floor
9 San Francisco, CA 94105
10 Telephone: (415) 777-3200
11 Facsimile: (415) 541-9366

12 Attorneys for Defendants
13 AMERICA WEST AIRLINES, INC. and
14 U.S. AIRWAYS, INC.

15 CURTIS G. OLER (Bar No. 63689)
16 LAW OFFICES OF CURTIS G. OLER
17 Post Office Box 15083
18 San Francisco, California 94115
19 Telephone: (415) 346-8015
20 Facsimile: (415) 346-8238

21 Attorney for Plaintiff
22 CLARISE JOY STEMLEY

23
24 UNITED STATES DISTRICT COURT
25 NORTHERN DISTRICT OF CALIFORNIA
26 SAN FRANCISCO DIVISION

27 CLARISE JOY STEMLEY,

28 No. 3:08-cv-02040-TEH

Plaintiff,

JOINT CASE MANAGEMENT
CONFERENCE STATEMENT

v.

Date: July 28, 2008

Time: 1:30 p.m.

Courtroom: 12

Judge: Senior Judge Thelton E. Henderson

AMERICA WEST AIRLINES, INC.; US
AIRWAYS, INC.; and DOES 1
THROUGH 25,

Defendants.

1 Pursuant to Civil L.R. 16-9(a), the parties to the above-entitled action certify that
2 they met and conferred prior to the case management conference scheduled in this case
3 and jointly submit this Case Management Statement.

4 1. Jurisdiction and Service:

5 The case was initially filed in Alameda County Superior Court on February 14,
6 2008 (*Alameda County Superior Court*, Case No. RG08371442). Defendants thereafter
7 removed the case to this court on grounds of diversity jurisdiction. The Parties hereby
8 submit to the jurisdiction of this Court.

9 All parties have been served in this action.

10 2. Disputed Factual Issues:

11 **Plaintiff:**

12 Although Plaintiff at all times continued to perform all of the assigned and related
13 duties of her employment in an excellent fashion, Defendants initiated and maintained a
14 continuing pattern of unlawful discriminatory employment practices against her which
15 included, but were not limited, to the denial of family leave culminating in the termination
16 of her employment effective on or about October 12, 2005, even though she was eligible
17 therefore and complied with all requirements relative thereto.

18 **Defendants:**

19 Defendants contend that Plaintiff is a former employee who was authorized for
20 unpaid time off work in August 2005 due to her report that she was injured in a motor
21 vehicle accident. Defendants contend that Plaintiff never requested, nor was she eligible
22 for leave under the California Family Rights Act (CFRA). Defendants further contend
23 that Plaintiff's treating physician cleared Plaintiff to return to work on September 6, 2005,
24 however Plaintiff never returned. Nor was Plaintiff ever able to provide Defendants with
25 any additional medical excuses for her absences beyond that date. Plaintiff was
26 thereafter lawfully terminated for job abandonment.

27 ///

28 ///

1 3. Legal Issues Raised by Plaintiff:

2 Plaintiff raises the following legal theories: 1) Race Discrimination in violation of
3 Government Code Section 12940 (a); 2) Disability Discrimination in violation of
4 Government Code Section 12940 (a); and 3) denial of medical leave pursuant to the
5 California Family Rights Act (CFRA), California Government Code, Section 12945.2.
6 Plaintiff seeks compensatory and punitive damages related to these legal theories.

7 4. Motions:

8 Defendants anticipate filing a motion for summary judgment.

9 5. Amendment of Pleadings:

10 The Parties do not anticipate any amendments to the pleadings.

11 6. Evidence Preservation:

12 The parties have met and conferred and confirmed the preservation of all
13 electronic and other evidence.

14 7. Disclosures:

15 The parties engaged in an initial meet-and-confer pursuant to Federal Rule of
16 Civil Procedure 26(f) on or about July 14, 2008. The parties will exchange initial
17 disclosures pursuant to Rule 26(a)(1) on or before August 11, 2008.

18 8. Discovery:

19 The parties have met and conferred and agree that the subjects on which
20 discovery is needed include Plaintiff's application, qualifications, work history, medical
21 history and damage claims. Defendants will take Plaintiff's deposition and the parties
22 agreed to allow two days for the completion of the same. Defendants anticipate serving
23 written discovery, including interrogatories, requests for production of documents and
24 requests for admission. Plaintiff agrees to disclose the names and addresses of all
25 medical providers who treated Plaintiff during her employment with Defendants.

26 Plaintiff will propound interrogatories, request for production of documents and
27 request for admissions to Defendants after which she will determine what depositions
28 might be necessary.

1 9. Class Actions:

2 Not applicable.

3 10. Related Cases:

4 There are no related pending cases or proceedings.

5 11. Relief6 **Relief Sought By Plaintiff:**

7 Plaintiff seeks damages as follows:

8 a) Grant Plaintiff a declaratory judgment that Defendants have violated
9 Plaintiff's rights as guaranteed by the California Fair Employment and Housing Act
10 (FEHA), California Government Code Section 12900, et seq., in committing the acts and
11 in engaging in the conduct complained of herein;12 b) Permanently enjoin Defendants, their agents, successors, and
13 employees and those acting in concert with them from engaging in each of the unlawful
14 practices and policies complained of herein;15 c) Award Plaintiff damages for all earnings and related employment
16 benefits lost;17 d) Reinstate Plaintiff to her said position or to a position commensurate
18 with her skills and abilities without loss of pay, seniority or rank;

19 e) Award Plaintiff damages for future earnings loss;

20 f) Award Plaintiff damages for lost career and employment
21 opportunities;22 g) Order that all negative material be removed from Plaintiff's
23 personnel file, or any other files or records maintained in connection with Plaintiff's
24 employment;25 h) Award Plaintiff compensatory damages for severe psychological
26 harm in an amount to be proven at trial;27 i) Award Plaintiff punitive damages in an amount commensurate with
28 harm caused to Plaintiff and Defendant's financial ability;

- j) Award Plaintiff costs of suit; and
- k) Grant Plaintiff reasonable attorney's fees.

Relief Sought By Defendants:

Defendants contend that Plaintiffs are not entitled to any damages. Defendants further pray that Plaintiff take nothing; that judgment be entered in Defendants' favor; and that Defendants recover their costs and attorneys' fees.

12. Settlement and ADR:

The parties have met and conferred and are both agreeable to mediation.

13. Consent to Magistrate Judge For All Purposes:

The Parties have not mutually consented to have a magistrate judge conduct all further proceedings.

14. Other References:

The case is not suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

15. Narrowing of Issues:

The parties have not yet been able to agree on issues that can be narrowed for trial. However, both parties remain open, and will endeavor during the course of discovery to identify any such issues or facts that can be narrowed.

16. Expedited Schedule:

This is not the type of case that can be handled on an expedited basis.

17. Scheduling:

Defendants are not available for trial on the following dates: April 6-30, 2009.

Plaintiffs are not available for trial on the following dates: March 30 - April 10, 2009; May 4 - May 15, 2009.

Based on the foregoing, the parties propose the following trial schedule:

Expert Designation Deadline: March 6, 2009

Discovery Cutoff: April 8, 2009

Deadline to hear dispositive motions: April 8, 2009

Expert Discovery Cutoff: May 8, 2009
Pre-Trial Conference: May 22, 2009
Trial Date: June 8, 2009

18. Trial:

The case will be tried to a jury. The expected length of trial is 10 days.

19. Disclosure of Non-party Interested Entities or Persons:

The Parties are not aware of any non-party interested entities or persons.

20. The Parties are not presently aware of any other matters that could facilitate the just, speedy and inexpensive disposition of this matter.

It is noted that Plaintiff suffered a brain aneurism on July 4, 2008 while traveling in Illinois and remains hospitalized.

DATED: July 21, 2008

HANSON BRIDGETT LLP

By: /s/ Jahmal T. Davis

PATRICK GLENN

KEVIN D. REESE

JAHMAL T. DAVIS

Atorneys for Defendants
AMERICA WEST AIRLINES, INC. and
U.S. AIRWAYS, INC.

DATED: July 21, 2008

LAW OFFICES OF CURTIS G. OLER

By: /s/ Curtis G. Oler

CURTIS G. OLER

Attorneys for Plaintiff

CLARISE JOY STEMLEY